

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
EASTERN DIVISION**

**KIRBY TATE, #23450**

**PETITIONER**

**VERSUS**

**CIVIL ACTION NO. 4:06CV99 DPJ-JCS**

**JERRY PARKER, ET AL.**

**RESPONDENTS**

**ORDER**

BEFORE the Court is the Petitioner's notice of appeal [13] to the United States Court of Appeals for the Fifth Circuit. The Petitioner failed to submit the appeal filing fee or a proper application to proceed *in forma pauperis*. The Petitioner submitted a district court *in forma pauperis* application; however the Fifth Circuit Court of Appeals requires Form 4 of the Federal Rules of Appellate Procedure. Accordingly, it is hereby,

**ORDERED:**

1. That within twenty (20) days of the entry of this order, Petitioner shall file a completed application for leave to proceed *in forma pauperis* or pay the required appeal filing fee of \$455.00. The Court will rule on Petitioner's pending motion for certificate of appealability upon submission of Petitioner's application or filing fee.
2. The Clerk shall mail the attached *in forma pauperis* application to the Petitioner at his last known address.

Failure to advise this Court of a change of address or failure to comply with any order of this Court will be deemed as a purposeful delay and contumacious act by the Plaintiff and may result in the denial of *in forma pauperis* status.

**SO ORDERED AND ADJUDGED** this the 11<sup>th</sup> day of May, 2007.

s/ Daniel P. Jordan III  
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
EASTERN DIVISION

KIRBY TATE, #23450

PETITIONER

v.  
DPJ-JCS

CIVIL ACTION NO. 4:06cv99

APPEAL NO. 07-60323

JERRY PARKER, ET AL.

RESPONDENT(S)

**MOTION TO PROCEED IN FORMA PAUPERIS ON APPEAL**

I, \_\_\_\_\_, declare that I am the plaintiff in the above-entitled proceeding; that in support of my request to proceed without prepayment of fees or costs under 28 U.S.C. § 1915 I declare that I am unable to pay the costs of these proceedings and that I am entitled to the relief sought in the complaint.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

**Form 4 of Federal Rules of Appellate Procedure  
Affidavit Accompanying Motion for Permission to Appeal In Forma Pauperis**

**INSTRUCTIONS**

**Complete all questions in this application and then sign it. Do not leave any blanks: if the answer to a questions is "0," "none," or "not applicable (N/A)," write in that response. If you need more space to answer a question or to explain your answer, attach a separate sheet of paper identified with you name, your case's docket number, and the question number.**

**AFFIDAVIT IN SUPPORT OF MOTION**

I swear or affirm under penalty of perjury that, because of my poverty, I cannot prepay the docket fees of my appeal or post a bond for them. I believe I am entitled to redress. I swear or affirm under penalty of perjury under United States laws that my answers on this form are true and correct. (28 U.S.C. §1746; 18 U.S.C. §1621)

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

My issues on appeal are:

\_\_\_\_\_

\_\_\_\_\_

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1. For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income source:	Average monthly amount during the	Amount expected
next month	past 12 months	
	You	You
Employment \$_____	\$_____	
Self-employment \$_____	\$_____	
Income from real property \$_____	\$_____	
such as rental income)		
Interest and dividends \$_____	\$_____	
Gifts \$_____	\$_____	
Alimony \$_____	\$_____	
Child support \$_____	\$_____	
Retirement (such as social	\$_____	

\$\_\_\_\_\_ security pensions, annuities, insurance)  
 Disability (such as social \$\_\_\_\_\_  
 \$\_\_\_\_\_ security insurance payments)  
 Unemployment payments \$\_\_\_\_\_  
 \$\_\_\_\_\_ Public-assistance (such as welfare) \$\_\_\_\_\_  
 \$\_\_\_\_\_ Other (specify): \_\_\_\_\_ \$\_\_\_\_\_  
 \$\_\_\_\_\_ Total monthly income: \$\_\_\_\_\_  
 \$\_\_\_\_\_

2. List your employment history, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

EMPLOYER	ADDRESS	DATES OF EMPLOYMENT	GROSS MONTHLY PAY

3. List your spouse's employment history, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

EMPLOYER	ADDRESS	DATES OF EMPLOYMENT	GROSS MONTHLY PAY

4. How much cash do you and your spouse have? \$\_\_\_\_\_

Below, state any money you or your spouse have in bank accounts or in any other financial institution.

FINANCIAL INSTITUTION	TYPE OF ACCOUNT	AMOUNT YOU HAVE	AMOUNT YOUR SPOUSE HAS

**If you are a prisoner, you must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.**

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

HOME (VALUE)	OTHER REAL ESTATE (VALUE)	OTHER ASSETS (VALUE)

MOTOR VEHICLE # 1      VALUE: \_\_\_\_\_ MAKE & YEAR: \_\_\_\_\_  
MODEL: \_\_\_\_\_  
REGISTRATION #: \_\_\_\_\_

MOTOR VEHICLE # 2      VALUE: \_\_\_\_\_ MAKE & YEAR: \_\_\_\_\_  
MODEL: \_\_\_\_\_  
REGISTRATION #: \_\_\_\_\_

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

PERSON OWING YOU OR YOUR SPOUSE MONEY	AMOUNT OWED TO YOU	AMOUNT OWED TO YOUR SPOUSE

7. State the persons who rely on you or your spouse for support.

NAME	RELATIONSHIP	AGE

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate.

	You	Your Spouse
Rent or home-mortgage payment (include lot rented for mobile home)	\$_____	\$_____
Are real-estate taxes included? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Is property insurance included? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Utilities (electricity, heating fuel, water, sewer, and Telephone)	\$_____	\$_____
Home maintenance (repairs and upkeep)	\$_____	\$_____
Food	\$_____	\$_____
Clothing	\$_____	\$_____
Laundry and dry-cleaning	\$_____	\$_____
Medical and dental expenses	\$_____	\$_____
Transportation (not including motor vehicle payments)	\$_____	\$_____
Recreation, entertainment, newspapers, magazines, etc.	\$_____	\$_____
Insurance (not deducted from wages or included in Mortgage payments)	\$_____	\$_____
Homeowner's or renter's	\$_____	\$_____
Life	\$_____	\$_____
Health	\$_____	\$_____
Motor Vehicle	\$_____	\$_____

Other: _____	\$ _____	\$ _____
Taxes (not deducted from wages or included in Mortgage payments) (specify): _____	\$ _____	\$ _____
Installment payments	\$ _____	\$ _____
Motor Vehicle	\$ _____	\$ _____
Credit card (name): _____	\$ _____	\$ _____
Department store (name): _____	\$ _____	\$ _____
Other: _____	\$ _____	\$ _____
Alimony, maintenance, and support paid to others	\$ _____	\$ _____
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ _____	\$ _____
Other (specify): _____	\$ _____	\$ _____
Total monthly expenses:	\$ _____	\$ _____

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?

☐ Yes ☐ No If yes, describe on an attached sheet.

10. Have you paid--or will you be paying--an attorney any money for services in connection with this case, including the completion of this form? ☐ Yes ☐ No

If yes, how much? \$ \_\_\_\_\_

If yes, state the attorney's name, address, and telephone number:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

11. Have you paid--or will you be paying--anyone other than an attorney (such as a par

alegal or a typist) any money for services in connection with this case, including the completion of this form?

☐ Yes ☐ No

If yes, how much? \$\_\_\_\_\_

If yes, state the person's name, address, and telephone number:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

12. Provide any other information that will help explain why you cannot pay the docket fees for your appeal.

13. State the address of your legal residence.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Your daytime phone number: \_\_\_\_

Your age: \_\_\_\_\_ Your years of schooling: \_\_\_\_\_

Your social-security number: \_\_\_\_\_

Signed under penalty of perjury:

\_\_\_\_\_

Date: \_\_\_\_\_



-----MUST BE COMPLETED BY PETITIONER-----

Authorization for Release of Institutional Account Information and  
Payment of the Appeal Filing Fee

I, \_\_\_\_\_,

\_\_\_\_\_  
(Name of Petitioner)

\_\_\_\_\_  
(Prisoner Number)

authorize the Clerk of Court to obtain, from the agency having custody of my person, information about my institutional account, including balances, deposits and withdrawals. The Clerk of Court may obtain my account information from the past six months and in the future, until the appeal filing fee is paid. I also authorize the agency having custody of my person to withdraw funds from my account and forward payments to the Clerk of Court, in accord with 28 U.S.C. Section 1915.

\_\_\_\_\_

(Signature of Petitioner)

\_\_\_\_\_  
(Date)

IT IS PLAINTIFF'S RESPONSIBILITY TO HAVE THE APPROPRIATE PRISON  
OFFICIAL COMPLETE AND CERTIFY THE CERTIFICATE BELOW

CERTIFICATE TO BE COMPLETED BY AUTHORIZED OFFICER

*(Prisoner Accounts Only)*

I certify that the applicant named herein has the sum of \$\_\_\_\_\_ on account to his credit at the \_\_\_\_\_ institution where he is confined. I further certify that the applicant likewise has the following securities to his credit according to the records of said institution:

\_\_\_\_\_.

I further certify that during the last six (6) months the  
Petitioner's average monthly **balance** was \$\_\_\_\_\_.

I further certify that during the last six (6) months the  
Petitioner's average monthly **deposit** was \$\_\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_  
TELEPHONE NUMBER  
INSTITUTION  
OF OFFICER FOR VERIFICATION

AUTHORIZED OFFICER OF

\_\_\_\_\_  
OFFICER  
DATE

PRINT NAME OF AUTHORIZED

**RETURN COMPLETED FORM TO:  
U. S. DISTRICT CLERK  
245 E. CAPITOL ST., ROOM 316  
JACKSON, MS 39201**